

Ryan K. Brown
Benton County Prosecuting Attorney's Office
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336
Phone: 509.735.3591

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GREENFIELD, ET AL.,

Plaintiffs,

vs.

BRENNER, ET AL.,

Defendants.

NO. CV-05-5120-LRS

**MOTION TO QUASH SERVICE
AND DISMISS BENTON COUNTY
UNDER CIV.R. 12 (b)(5);
MOTION TO DISMISS BENTON
CO. PLANNING/BUILDING
DEPT. AND OFFICIAL
CAPACITY SUITS AGAINST
DEFENDANTS MILLER,
MARDEN, VINING, STILWILL,
BROWN AND BRENNER UNDER
CIV.R. 12(b)(6); AND
MOTION TO DISMISS
PLAINTIFFS' SECOND, THIRD
AND ELEVENTH CAUSES OF
ACTION AGAINST ALL
REMAINING COUNTY
DEFENDANTS UNDER CIV.R.
12(b)(6).**

COME NOW defendants Benton County, the Benton County Planning/Building Department and Andy Miller, Terry Marden, Steve Brown, Elisa Vining, Craig Stilwill and Gary Brenner, each in their official capacity, to move the Court for an order dismissing this action against them for the following reasons:

1. Defendant Benton County was not properly served with the summons and complaint in the manner prescribed by Washington law and Civ.R. 4(j).

2. Defendants Benton County Planning/Building Dept. and Andy Miller, Terry Marden, Gary Brenner, Steve Brown, Craig Stilwill and

Elisa Vining are not proper parties in their official capacities and should be dismissed under Civ.R. 12(b)(6).

COME NOW defendants Gary Brenner, Steve Brown, Craig Stilwill, and Elisa Vining, each in their individual capacity, and any of the above defendants to the extent not already dismissed, to further move the Court for an order dismissing the plaintiffs' Second, Third and Eleventh Claims under Civ.R. 12(b)(6) for failure to state a claim.

The legal points and authorities relied on in support of this motion are set forth in the accompanying Memorandum in Support.

A proposed order granting the relief requested accompanies this motion.

Dated this 18th day of January, 2006.

ANDY MILLER
Prosecuting Attorney

By s/Ryan K. Brown
RYAN K. BROWN, Chief Deputy (Civil)
Prosecuting Attorney
WSBA # 19837
Attorneys for Benton Co. Defendants
Benton County Prosecutor's Office
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336
Telephone: (509) 735-3591
Fax: (509) 222-3705
Email: ryan.brown@co.benton.wa.us

DECLARATION OF SERVICE

I certify that I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

Gerry Greenfield, Jr.
P.O. Box 6333
Kennewick, WA 99336

☒ U.S. Regular Mail, Postage Prepaid
☒ Legal Messenger
☒ Facsimile
☒ Overnight Express
☒ Electronic Notice Via ECF

Gerry Greenfield III
3324 NE 6th Place
Renton, WA 98056

X U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
9 Electronic Notice Via ECF

Elizabeth Logsdon
1114 W. 10th Ave. P-205
Kennewick, WA 99336

X U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
9 Electronic Notice Via ECF

Nicole Greenfield
1114 W. 10th Ave. L-205
Kennewick, WA 99336

X U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
9 Electronic Notice Via ECF

Christopher W. Tompkins
BETTS, PATTERSON & MINES, P.S.
One Convention Place, Ste. 1400
701 Pike Street
Seattle, WA 98101-3927

G U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
X Electronic Notice Via ECF

Dan F. Hultgrenn
KUFFEL, HULTGRENN, KLASHKE & SHEA,
LLP
1915 Sun Willows
Pasco, WA 99301

G U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
X Electronic Notice Via ECF

Kristina L.J. McKennon
FLYNN, MERRIMAN & PALMER, P.S.
830 N. Columbia Center Blvd., Ste. A
Kennewick, WA 99336

G U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
X Electronic Notice Via ECF

DATED this 18th day of January, 2006, at Kennewick, Washington.

S/Ryan K. Brown
RYAN K. BROWN